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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,936	08/01/2003	Stephan W. Tillitski	8T03.1-050	4983

23506 7590 05/19/2004

GARDNER GROFF, P.C.  
PAPER MILL VILLAGE, BUILDING 23  
600 VILLAGE TRACE  
SUITE 300  
MARIETTA, GA 30067

EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/632,936

**Applicant(s)**

TILLITSKI, STEPHAN W.

**Examiner**

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 9-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/03/2003
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Group I, comprising figures 1-4 in Paper No. 04062004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1-5 and 9-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 04062004. Claims 1-5 are also withdrawn because applicant elected the species of figures 1-4. The elected species has only a single tapered body 106. Claim 1 requires a plurality of cable engaging wedges and is therefore specific to the non-elected species of figures 5 and 6. The term cable engaging wedges is utilized in the specification to only describe the species of figures 5 and 6 and is consistent with the non-elected species of figures 5 and 6.

### ***Priority***

If applicant desires priority under 35 U.S.C. 119(e) based upon a previously filed application, the second application upon which priority benefit is sought under 35 U.S.C. 119(e) on page 1 requires the blanks to be filled in, specific reference to the earlier filed application must be made in the instant application. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. This should appear as the first sentence of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status

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of nonprovisional parent application(s) (whether patented or abandoned) should also be included.

If a parent application has become a patent, the expression "now Patent No. \_\_\_\_" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The

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Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 and 8 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Maras (US 3229341).

Maras (figures 2, 3) teaches a wire stop for a multi-strand cable, the wire stop comprising: and outer body 5 with a tapered opening 13 extending therethrough; a tapered inner body 14 being sized and configured to be received in and cooperate with the tapered opening in the outer body; and wherein a multi-strand cable can be partially unraveled and the individual strands of the cable can be threaded between the inner body and the outer body, and wherein upon the application of tensile force on the cable, the cable can be held fast by the wire stop. The claim is constructed so that the wire stop need only be capable of use with a multi-strand steel cable. The steel cable is not an element positively recited in combination. All references to the steel cable are uniformly constructed as intended use. These references comprise: “for use with a multi-strand steel cable” (line 1); and “wherein a multi-strand steel cable can be partially unraveled and the individual strands of the steel cable can be threaded between the inner body and the outer body, and wherein upon the application of tensile force on the steel cable, the steel

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cable can be held fast by the wire stop" (lines 6-9). The claim is constructed by utilizing "for use" or repeatedly utilizing "can be" when referring to the steel cable rather than --in combination-- or --is-- so as to positively recite the steel cable in combination. The wire stop of Maras can inherently secure a multi-strand steel cable if so desired. As to claim 8, the tapered inner body 14 has a frustoconical shape and the tapered opening 13 in the outer body 5 has a similar taper.

Claims 6-8 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Marchand, Jr. (US 985915).

Marchand, Jr. (figures 1-3) teaches a wire stop for a multi-strand cable, the wire stop comprising: and outer body A with a tapered opening B extending therethrough; a tapered inner body G being sized and configured to be received in and cooperate with the tapered opening in the outer body; and wherein a multi-strand cable can be partially unraveled and the individual strands of the cable can be threaded between the inner body and the outer body, and wherein upon the application of tensile force on the cable, the cable can be held fast by the wire stop. The claim is constructed so that the wire stop need only be capable of use with a multi-strand steel cable. The steel cable is not an element positively recited in combination. All references to the steel cable are uniformly constructed as intended use. These references comprise: "for use with a multi-strand steel cable" (line 1); and "wherein a multi-strand steel cable can be partially unraveled and the individual strands of the steel cable can be threaded between the inner body and the outer body, and wherein upon the application of tensile force on the steel cable, the steel cable can be held fast by the wire stop" (lines 6-9). The claim is constructed by utilizing "for use" or repeatedly utilizing "can be" when referring to the steel cable rather than --in

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combination-- or --is-- so as to positively recite the steel cable in combination. The wire stop of Marchand, Jr. can inherently secure a multi-strand steel cable if so desired. In regard to claim 7, the tapered inner body G has a central bore, g, extending therethrough for receiving a strand of the multi-strand cable therein and wherein a single strand of the cable can be threaded through the central bore in the tapered inner body and the remaining strands can be threaded between the inner body and the outer body. Claim 7 is constructed in a similar manner to claim 6 in that the steel cable is not claimed in combination. Applicant utilizes language "for receiving a strand" (line 2); "a single strand of the steel cable can be threaded" (line 3); and "the remaining strands can be threaded" (line 4) that is directed to an intended use. The claim construction never utilizes the language --receiving-- so as to leave out "for" or --is threaded-- so as to denote the combination with the steel cable. As to claim 8, the tapered inner body G has a frustoconical shape and the tapered opening B in the outer body A has a similar taper.

### *Conclusion*

The patents of Youngblood (US 3475795, figures 1-3), Kucherry (US 4055365, figures 3-5), Fiege (US 2016856, figures 1-3), Ehlert (US 3676899, figures 1, 2, 4), and JP 3-193985 (figure 5) teaches pertinent fastener structure for cables.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB